



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 21 2014

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

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In Reply Refer to:

EPA File No. 15R-13-R3

Dale A. Callaway, Chairman
Sussex County Board of Adjustment
Planning and Zoning Office
P.O. Box 417
Georgetown, DE 19947

Re: Rejection of Administrative Complaint

Dear Chairman Callaway:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is rejecting the complaint filed against the Sussex County Board of Adjustment received by EPA on October 31, 2013. OCR has responsibility for processing complaints alleging a violation of Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and the EPA's nondiscrimination regulations found at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination administrative regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to the appropriate Agency (see 40 C.F.R. § 7.120(d)(1)). For a complaint to be accepted for investigation, the complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing (see 40 C.F.R. § 7.120(b)(1)). Second, the complaint must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act (See 40 C.F.R. § 7.120(b)(2)). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act (See 40 C.F.R. § 7.15). For your reference, we have enclosed a copy of the EPA's nondiscrimination regulations.

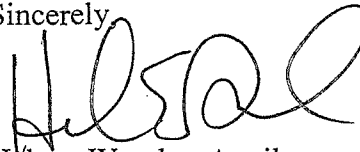
After careful review by OCR, the EPA is rejecting the complaint because the allegation described does not meet the EPA's jurisdictional requirements. Specifically, the complaint alleges that the Sussex County Board of Adjustment discriminated against seniors, Blacks, and Hispanics when it approved a "special use exception for a potentially hazardous use poultry

processing facility". It was alleged that the granting of this approval to the Allen/Hairm Company (Company) would allow the Company to begin the process of acquiring an operational permit, which would have detrimental health impacts on senior citizens, Blacks, and Hispanics who live close to the site.

This allegation does not meet the EPA's jurisdictional requirements as described in the EPA's nondiscrimination regulations. The EPA's jurisdictional requirements state that to be accepted for investigation the complaint must be filed against a recipient of the EPA's financial assistance that allegedly committed the discriminatory act(s). Neither the Sussex County Council nor the Sussex County Board of Adjustment is a current recipient of EPA financial assistance. Therefore, the EPA finds that it lacks jurisdiction to investigate this complaint and must reject the complaint as an alleged violation of Title VI.

If you have any questions about this letter, please contact Mr. Samuel Peterson via telephone at (202) 564-5393 or via e-mail at peterson.samuel@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Wooden-Aguilar', written over a horizontal line.

Helena Wooden-Aguilar
Interim Acting Director

Enclosure

cc: Ken Redden, Assistant General Counsel
Civil Rights and Finance Law Office (MC 2399A)

Daniel Isales, Title
US EPA Region III
Mail Code: 3RC60